

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

B.L., a minor, by and through her father,)
 LAWRENCE LEVY, and her mother,)
 BETTY LOU LEVY,) Civ. No. 3:17-cv-1734
)
)
 Plaintiff,)
)
)
 v.)
)
)
 MAHANOEY AREA SCHOOL)
 DISTRICT;)
)
)
 Defendant.)
)

**PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

1. Plaintiff hereby moves, pursuant to Federal Rule of Civil Procedure 65, for entry of a Temporary Restraining Order and Preliminary Injunction to order Defendant immediately to restore B.L. to her prior status on the cheerleading squad and forbidding the District from continuing its any punishment of Plaintiff B.L. for her out-of-school speech.

2. Defendant has removed Plaintiff B.L., a high school sophomore, from the cheerleading squad as punishment for a single post on Snapchat—created

outside of school, on her own time—that school officials believed was “negative,” “disrespectful,” and “demeaning.”

3. Plaintiff incorporates by reference the facts alleged in the Verified Complaint.

4. Plaintiff also incorporates by reference the legal arguments contained in the Memorandum in Support of Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction.

5. Plaintiff has satisfied the four-part test for granting a temporary restraining order and preliminary injunction.

6. As set forth in the accompanying legal memorandum, Plaintiff is likely to succeed on the merits of her First Amendment claims.

7. Plaintiff will suffer irreparable harm unless the requested injunctive relief is granted.

8. The government has no legally cognizable interest in suppressing the exercise of constitutional rights. Accordingly, no harm to Defendant would result from granting the requested injunctive relief.

9. Granting the requested injunctive relief will not result in any foreseeable, serious harm to Defendant or the public.

10. Plaintiff made numerous efforts to avoid litigation. As detailed in the Verified Complaint, Plaintiff and her parents initiated multiple conversations with

the cheerleading coaches, the athletic director, the principal, the Superintendent, and the school board to request that the District reconsider B.L.'s punishment. Counsel for Plaintiff also explained, in writing, the applicable legal framework and attempted to resolve the issue with the District Solicitor before filing suit.

11. Plaintiff, through the undersigned counsel, gave notice to the District Solicitor on Friday, September 22, 2017 about the filing of this action and motion for temporary restraining order or preliminary injunction.

12. Plaintiff requests that the Court immediately schedule a hearing and issue a temporary restraining order enjoining the District from continuing to punish B.L. for her out-of-school speech.

13. Because this is a non-commercial case involving a relatively small amount of money, and because the balance of hardships favors the Plaintiff, the security bond requirement in Federal Rule of Civil Procedure 65(c) should be waived. *B.H. v. Easton Area Sch. Dist.*, 827 F. Supp. 2d 392, 409 (E.D. Pa. 2011) (citing *Elliott v. Kiesewetter*, 98 F.3d 47, 59–60 (3d Cir. 1996)).

WHEREFORE, Plaintiff respectfully requests that this Court enter a Temporary Restraining Order and Preliminary Injunction to enjoin Defendant from continuing to punish Plaintiff in violation of her First Amendment rights. Plaintiff further requests that the Court schedule a preliminary injunction hearing for the

earliest available opportunity, but before the expiration of the temporary restraining order.

Dated: September 25, 2017

Respectfully submitted,

/s/ Molly Tack-Hooper

Molly Tack-Hooper (PA 307828)
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CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION was filed electronically and served on all counsel of record via the ECF system of the United States District Court for the Middle District of Pennsylvania.

In addition, it was served via email on the following counsel for Defendant:

Michael Levin
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John G. Dean
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Dated: September 25, 2017

/s/ Molly Tack-Hooper
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